

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Patrick Harrison	Team: Team # 2	CCRB Case #: 201201237	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 01/25/2012 1:16 AM	Location of Incident: Halsey Street between Bedford Avenue and Nostrand Avenue; 79th Precinct stationhouse	Precinct: 79	18 Mo. SOL 7/25/2013	EO SOL 7/25/2013	
Date/Time CV Reported Mon, 01/30/2012 10:16 AM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Mon, 01/30/2012 10:16 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Tamiko Patterson	24375	947329	079 PCT
2. POM Brian Mochrie	25039	947810	079 PCT
3. POM Derrick McIntosh	08849	937068	079 PCT
4. POM Herman Kirton	06900	901780	079 PCT
5. POM Jeanmarc Denis	13683	917525	079 PCT
6. POM Shibu Madhu	13609	944754	079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Christophe Kocienda	15031	944704	079 PCT
2. POM James Helliesen	21458	882568	079 PCT
3. SGT Tony Brown	00367	936249	079 PCT
4. SGT Matthew Monkowski	04545	930757	079 PCT
5. POM Randy Williams	10730	892705	079 PCT
6. POM Awais Mazhar	12155	945243	079 PCT
7. POM John Balestriere	03206	939897	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Derrick McIntosh	Force: PO Derrick McIntosh struck § 87(2)(b) with a blunt instrument on Halsey Street between Bedford Avenue and Nostrand Avenue in Brooklyn.	
B.POM Derrick McIntosh	Force: PO Derrick McIntosh used pepper spray against § 87(2)(b) on Halsey Street between Bedford Avenue and Nostrand Avenue in Brooklyn.	
C.POM Derrick McIntosh	Force: PO Derrick McIntosh used physical force against § 87(2)(b) on Halsey Street between Bedford Avenue and Nostrand Avenue in Brooklyn.	
D.POM Shibu Madhu	Force: PO Shibu Madhu hit § 87(2)(b) against walls at the 79th Precinct stationhouse.	

Officer(s)	Allegation	Investigator Recommendation
E.POM Brian Mochrie	Force: PO Brian Mochrie hit § 87(2)(b) against walls at the 79th Precinct stationhouse.	
F.POF Tamiko Patterson	Force: PO Tamiko Patterson hit § 87(2)(b) against walls at the 79th Precinct stationhouse.	
§ 87(2)(b)	OMN: PO Jeanmarc Denis failed to prepare a memo book entry in accordance with Patrol Guide Procedure 212-08.	
§ 87(2)(b)	OMN: PO Herman Kirton failed to prepare a memo book entry in accordance with Patrol Guide Procedure 212-08.	
§ 87(2)(b)	OMN: PO Derrick McIntosh failed to prepare a memo book entry in accordance with Patrol Guide Procedure 212-08.	

### Case Summary

On January 30, 2012, § 87(2)(b) filed this complaint in person at the CCRB on January 30, 2012 (encl. 6.21-6.22). Additionally, on January 25, 2012, Sgt. Tony Brown called the IAB command center to file this complaint (encl. 4.0-4.1). IAB referred the complaint to the CCRB under log 12-06764, but the complaint was not received at the CCRB until February 8, 2012.

On January 25, 2012, at 1:16 a.m., § 87(2)(b) was arrested on Halsey Street between Bedford Avenue and Nostrand Avenue in Brooklyn. The following allegations resulted:

- **Allegation A – Force: PO Derrick McIntosh struck § 87(2)(b) with a blunt instrument on Halsey Street between Bedford Avenue and Nostrand Avenue in Brooklyn.**
- **Allegation B – Force: PO Derrick McIntosh used pepper spray against § 87(2)(b) on Halsey Street between Bedford Avenue and Nostrand Avenue in Brooklyn.**  
§ 87(2)(g)
- **Allegation C – Force: PO Derrick McIntosh used physical force against § 87(2)(b) on Halsey Street between Bedford Avenue and Nostrand Avenue in Brooklyn.**
- **Allegation D – Force: PO Shibu Madhu hit § 87(2)(b) against walls at the 79th Precinct stationhouse.**
- **Allegation E – Force: PO Brian Mochrie hit § 87(2)(b) against walls at the 79th Precinct stationhouse.**
- **Allegation F – Force: PO Tamiko Patterson hit § 87(2)(b) against walls at the 79th Precinct stationhouse.**

§ 87(2)(g)

- § 87(2)(b)

- § 87(4-b) § 87(2)(g)

## Results of Investigation

### Civilian Statements

#### Complainant/Victim: § 87(2)(b)

- § 87(2)(b) *a black man who stands 6'2" tall, weighs 190lbs., and has black hair and brown eyes, was § 87(2)(b) old at the time of the incident.*

#### Statements to Medical Personnel

On § 87(2)(b) § 87(2)(b) was treated by EMS while in police custody and stated, "I was pushed to the wall and hit my face" and "my right eye, the[y] hit me in it" (encl. 8.05).

#### CCRB Statement

On January 25, 2012, at 5:15 a.m., § 87(2)(b) was interviewed at § 87(2)(b) by Det. Vincent Bellizzi and Sgt. William Haut of IAB Group 9 (encl. 6.00-6.02). On the same date, at 4:48 p.m., § 87(2)(b) was interviewed at § 87(2)(b) by Det. Lesly Honore and Sgt. Jose Mendez of IAB Group 54 (encl. 6.11-6.17). On January 30, 2012, § 87(2)(b) was interviewed at the CCRB (encl. 6.23-6.27). § 87(2)(g)

On January 25, 2012, at approximately 1:16 a.m., § 87(2)(b) was at the Denim Lounge, a club located at 1223 Bedford Avenue at the intersection of Bedford Avenue and Halsey Street, when the club was evacuated due to a fight at the club entrance. Pepper spray had been used in the fight. The occupants of the club evacuated the premises through a side door onto Halsey Street between Bedford Avenue and Nostrand Avenue.

§ 87(2)(b) had been drinking since he arrived at the club at 9:30 p.m. but did not feel very intoxicated and was not under the influence of any drugs. § 87(2)(b) told IAB Group 9 that he had had one beer and one shot of vodka, but told the CCRB that he had had two beers and two shots of vodka. § 87(2)(b) was with a friend called "§ 87(2)(b)" whose real name and contact information he refused to provide.

§ 87(2)(b) who had had a child with § 87(2)(b) was also at the club. § 87(2)(b) decided to confront § 87(2)(b) regarding derogatory statements she had made about him online. § 87(2)(b) approached § 87(2)(b) who saw him approaching her and then tripped and fell to the ground. § 87(2)(b) put his right hand on § 87(2)(b)'s left cheek and pushed her face once. § 87(2)(b) told § 87(2)(b) to stop talking about him online.

§ 87(2)(b) told IAB Group 54 and the CCRB that two unidentified plainclothes officers then approached him and § 87(2)(b) and asked them what was going on. § 87(2)(b) omitted any mention of his encounter with these plainclothes officers during his interview with IAB Group 9. The officers asked § 87(2)(b) what was going on, and he told them that he was having a dispute with § 87(2)(b). One of the plainclothes officers frisked § 87(2)(b) and then the officers told § 87(2)(b) and § 87(2)(b) to go their separate ways. § 87(2)(b) had no complaint about the actions of these plainclothes officers.

§ 87(2)(b) told Group 54 that § 87(2)(b) walked away from the club on Halsey Street towards Nostrand Avenue and that he then followed her to confront her. § 87(2)(b) told the CCRB that it was he who walked away toward Nostrand Avenue and § 87(2)(b) who had followed him. Approximately six house lengths down Halsey Street from Bedford Avenue, § 87(2)(b) stepped out into the street and flagged down two passing police cars. In the cars were PO Derrick McIntosh (identified by investigation) and four or five white officers. § 87(2)(b) told the officers that she was nine months pregnant with § 87(2)(b)'s child and that § 87(2)(b) had kicked and punched her. § 87(2)(b) was not actually nine month's pregnant; she had already given birth to § 87(2)(b)'s child.

Officers exited their cars and told § 87(2)(b) to put his hands up. § 87(2)(b) held his hands at his side and told the officers that he had not done anything. § 87(2)(b) told the officers that plainclothes officers had just told him and § 87(2)(b) to go their separate ways and that § 87(2)(b) had followed him. PO McIntosh approached § 87(2)(b). § 87(2)(b) asked PO McIntosh why he was being arrested. PO McIntosh told § 87(2)(b) to move his hands from his side. § 87(2)(b) put his hands across his chest but kept them visible to officers. § 87(2)(b) did not attempt to swing at any of the officers or make any provocative or threatening gestures or movements toward them at any time during the incident.

PO McIntosh tried to grab § 87(2)(b)'s hands. § 87(2)(b) grabbed hold of a waist-high fence. § 87(2)(b) told Group 9 that PO McIntosh repeatedly hit his hand with a stick, causing him to let go of the gate. § 87(2)(b) told the CCRB that PO McIntosh hit his § 87(2)(b)'s right hand four times and his left hand and one time with a black, wooden stick and that he did not let go of the gate. § 87(2)(b) omitted mention of having been struck with a stick in his interview with IAB Group 54.

PO McIntosh told § 87(2)(b) to put his hands behind his back. § 87(2)(b) asked why he was being arrested. PO McIntosh then pepper sprayed § 87(2)(b). § 87(2)(b) told IAB Group 54 that he continued to hold onto the gate after being pepper sprayed but told the CCRB that he let go of the gate upon being pepper sprayed. One of the white officers grabbed § 87(2)(b)'s arms and handcuffed him.

After being handcuffed, § 87(2)(b) spit at § 87(2)(b). § 87(2)(b) did not spit at any officer. § 87(2)(b) was put against a police vehicle. § 87(2)(b) told Group 9 that PO McIntosh punched him in the face and right eye, told Group 54 that PO McIntosh punched him in the face, and told the CCRB that PO McIntosh then punched him in the right side of his chin three or four times.

§ 87(2)(b) was put into a police car. § 87(2)(b) told IAB Group 9 that he spit out blood in the police car but did not clarify why or from what part of his body he was bleeding. § 87(2)(b) told IAB Group 54 that he was not bleeding in the car. § 87(2)(b) told Group 54 that he did not bang his head inside the police car, and he was not questioned about this matter in his other interviews.

§ 87(2)(b) was transported to the 79<sup>th</sup> Precinct stationhouse by PO Tamiko Patterson and PO Brian Mochrie (both identified by investigation). After arriving at the stationhouse, PO Patterson and PO Mochrie took § 87(2)(b) out of the car. PO Madhu, PO Mochrie, and PO Patterson escorted § 87(2)(b) from the car to a holding cell in the stationhouse. § 87(2)(b) did not recall which officer or officers escorted him from the car to the holding cell. The investigation identified the officers as PO Madhu, PO Mochrie, and PO Patterson.)

PO Madhu, PO Mochrie, and PO Patterson pushed § 87(2)(b) into the stationhouse walls four times while taking him to the holding cell. The first push into a wall occurred immediately after § 87(2)(b) entered the stationhouse. The right side of § 87(2)(b)'s face by his eyebrow made contact with the wall and bled. § 87(2)(b) fell to the ground and lost consciousness for three to four minutes. This push was witnessed by PO1, a white male officer working at the front desk who was in his 30's who stood 5'5" tall and had with an average build

The second push occurred next to the front desk. The left side of § 87(2)(b)'s face hit the wall, causing him jaw pain. § 87(2)(b) initially stated during his CCRB interview that he was unconscious when this push occurred. § 87(2)(b) later clarified that he was just regaining consciousness when the push occurred. The third push occurred when § 87(2)(b) was hit against a wall near the holding cell. The fourth push occurred when § 87(2)(b) was hit against a wall inside the holding cell. Blood got on the walls against which § 87(2)(b) was struck.

§ 87(2)(b) told IAB Group 9 that officers used unspecified force against him inside the holding cell but did not make this allegation to IAB Group 54. § 87(2)(b) told the CCRB that once § 87(2)(b) was inside the holding cell, four or five officers grabbed him by his arms or clothing and hit him against the bench. The officers then hit him against a wall or other hard surface two or three more times. § 87(2)(b) could not describe any of the officers because his sight was impaired by having been pepper sprayed. Throughout the use of force against him, § 87(2)(b) yelled at the officers to stop, threatened to sue them, and tried to roll away from the officers and stand up. § 87(2)(b)'s left shoulder hurt as a result of the uses of force against him.

§ 87(2)(b) yelled that he needed to go to the hospital. PO1 came to the holding cell. § 87(2)(b) told PO1 that his shoulder was broken, that he was bleeding, that his handcuffs were overly tight, and that officers had committed misconduct against him. PO1 told § 87(2)(b) to calm down and that an ambulance was coming. § 87(2)(b) was transported to § 87(2)(b) where he was treated with painkillers and five stitches to his right eyebrow.

### **Photo Viewing**

On January 25, 2012, at 4:48 p.m., the investigating officers from IAB Group 54 showed four photo arrays to § 87(2)(b) at § 87(2)(b) (encl. 6.11-6.17). The photo arrays contained pictures of PO Helliesen, PO Mochrie, PO Kocienda and PO Patterson. § 87(2)(b) did not recognize PO Helliesen, PO Mochrie, or PO Kocienda but did recognize PO Patterson as an officer who was at the scene of the incident.

### **Photographic Evidence**

On January 25, 2012, at approximately 5:15 a.m., the investigating officers from IAB Group 9 photographed § 87(2)(b) at § 87(2)(b) (encl. 6.03-6.06). Two of the photographs show a laceration to § 87(2)(b)'s right eyebrow (encl. 6.04-6.04). The wound appears to be encrusted with dried blood, and there four bandages over the laceration. One photograph, which is out of focus, depicts § 87(2)(b)'s hands (6.06). There appears to be bruising on § 87(2)(b)'s right hand and scrapes on the knuckles of his right hand.

The injury to § 87(2)(b)'s right eyebrow is also seen in photographs taken at approximately 4:48 p.m. on January 25, 2012 by the investigating officers from IAB Group 54 and in § 87(2)(b)'s arrest photograph, which was presumably taken sometime between his return from the hospital to the 79<sup>th</sup> Precinct stationhouse at 12:15 p.m. on January 26, 2012, and his being

brought to Brooklyn Central Booking at 4:34 p.m. (see analysis of **Command Log** in the **Police Documents** section of this report) (encl.6.18-6.20, 6.28). The appearance of the injury and its bandaging is consistent in all three sets of photographs.

On January 27, 2012, at approximately 4:00 p.m., a family member took four photographs of § 87(2)(b)'s injuries (encl. 6.29-6.32). § 87(2)(b)'s sister, § 87(2)(b) e-mailed these photographs to the CCRB on § 87(2)(b)'s behalf. All four photographs are out of focus. One of the photographs depicts § 87(2)(b)'s left shoulder with no apparent injuries (encl. 6.31). One photograph depicts the right flank of § 87(2)(b)'s abdomen (6.32). There are two dark blemishes of an unknown nature on the skin of § 87(2)(b)'s right flank and no apparent injuries. Two of the photographs depict the injury to § 87(2)(b)'s right eyebrow (6.29-6.30). The appearance of the injury and its bandaging is consistent with what is seen in the IAB photographs and in § 87(2)(b)'s arrest photograph.

Four photographs were taken of § 87(2)(b) at the time of his CCRB interview on January 30, 2012 (encl. 6.33-6.36). Three of the photographs show a partially healed laceration to § 87(2)(b)'s right eyebrow consistent with that seen in the rest of the photographs (6.33-6.35). One photograph of § 87(2)(b)'s left shoulder shows a pink scar of undetermined age on his shoulder and no other apparent injuries (6.36).

§ 87(2)(b) had visible lump on his upper left forehead on the date of his CCRB interview. This lump was also visible in the photographs taken of him on January 25, 2012 by IAB. § 87(2)(b) told both the CCRB and IAB Group 54 that this lump was a pre-existing scar that was not related to the incident.

**Witness:** § 87(2)(b)

- § 87(2)(b) a black woman, was § 87(2)(b) old at the time of the incident.

On January 25, 2012, at 1:11 a.m., § 87(2)(b) called 911 to complain about § 87(2)(b) (encl. 9.00, 9.02). Later the same day, § 87(2)(b) prepared a handwritten statement regarding the incident as part of a Domestic Incident Report regarding the incident (encl. 6.37). Later the same day, at 12:40 p.m., Sgt. Mendez of IAB Group 54 interviewed § 87(2)(b) via telephone (encl. 6.38-6.45). On March 1, 2012, § 87(2)(b) provided a phone statement to the CCRB (encl. 6.46).

§ 87(2)(g)

At the time of the incident, § 87(2)(b) who was nine months pregnant with § 87(2)(b)'s child, was walking out with her friend, § 87(2)(b) when § 87(2)(b) called her name. § 87(2)(b) kept walking, but § 87(2)(b) approached her from behind and punched her on the left side of her face and lip twice, causing her to fall down on the second punch. § 87(2)(b) and an unknown woman who had been passing by tried to hold § 87(2)(b) back. § 87(2)(b) threatened to harm the unknown women, and § 87(2)(b) told her to leave so that he would not hurt her.

§ 87(2)(b) got the attention of unidentified officers whom she referred to as detectives and complained that § 87(2)(b) and hit her. The officers "checked" § 87(2)(b) for weapons and stated that they were only looking for guns or marijuana and left. § 87(2)(b) then started to call 911, and while she was on the phone with 911 flagged down a passing marked police car.

§ 87(2)(b) waved down a passing police car, told the officers that she was nine month's pregnant, that the father of her child, § 87(2)(b) had assaulted her. § 87(2)(b) can be heard on the 911 recording stating multiple times, apparently to a third party at the incident location, that § 87(2)(b) had punched her.)

§ 87(2)(b) told IAB that the officers then asked § 87(2)(b) what had happened. § 87(2)(b) told the officers not to question him. The officers told § 87(2)(b) to turn around so that he could be searched. § 87(2)(b) told the officers they would not search him. The officers then attempted to handcuff § 87(2)(b). § 87(2)(b) would not let himself be handcuffed and was then pepper sprayed.

§ 87(2)(b) told the CCRB that when the officers asked § 87(2)(b) what happened, § 87(2)(b) began cursing and swinging at the officers, hit one of the officers, and was then pepper sprayed by a different officer. § 87(2)(b) omitted any mention of § 87(2)(b) swinging at or hitting any officer in her statement to IAB.

§ 87(2)(b) spit several times, both at § 87(2)(b) and at officers and both before and after being handcuffed. § 87(2)(b) told CCRB that § 87(2)(b) resisted being escorted to a police car by kicking and yelling, and she told IAB that he threw himself to the ground in an apparent attempt to injure himself. While he was yelling, § 87(2)(b) denied that § 87(2)(b) was pregnant, called PO Tamiko Patterson (identified by name), who was at the location, a "bitch" and called PO Derrick McIntosh (identified by investigation) a "faggot." § 87(2)(b) specifically denied that any officer punched § 87(2)(b) at the location and did not describe any officer striking him with a stick.

§ 87(2)(b) was put in a police car. § 87(2)(b) attempted to kick out the windows of the police car and repeatedly struck the front right part of his own head against the cage partition. § 87(2)(b) did not see if § 87(2)(b) injured his head or was bleeding.

§ 87(2)(b) and § 87(2)(b) were taken to the 79th Precinct stationhouse separately. At the stationhouse, § 87(2)(b) could hear § 87(2)(b) yelling and cursing, that he wanted to go to the "fucking" hospital. When § 87(2)(b) was lead out to the ambulance, § 87(2)(b) observed that he was bleeding from his forehead.

Six calls were made to § 87(2)(b) by the CCRB between February 7, 2012, and April 12, 2012, and letters were sent to her on February 7, 2012, and February 8, 2012. After providing her phone statement to the CCRB, § 87(2)(b) scheduled an interview on March 2, 2012. § 87(2)(b) cancelled her interview on March 2, 2012, because she had gone into labor with her child. On April 4, 2012, § 87(2)(b) stated that she would not go to the CCRB to provide a statement because officers had not assaulted § 87(2)(b). However, § 87(2)(b) stated that she would provide a statement in person if the CCRB investigator came to her residence. Authorization to interview § 87(2)(b) in the field was granted the same day and a voicemail message was left for her. Two more voicemail messages were left for § 87(2)(b) on April 11, 2012 and April 12, 2012. § 87(2)(b) has not contacted the CCRB since March 4, 2012. As of April 24, 2013, § 87(2)(b) was not incarcerated by the City or State of New York.

§ 87(2)(b) stated to both IAB and the CCRB that officers had not assaulted § 87(2)(b) and that she did not want to help his complaint.

### **Photo Viewing**



On January 25, 2012, at 2:15 p.m., investigating officers from IAB Group 54 showed four photo arrays to § 87(2)(b) at the § 87(2)(b) emergency room (encl. 6.38-6.45). § 87(2)(b) was shown four photo arrays. The photo arrays contained pictures of PO Helliesen, PO Mochrie, PO Kocienda and PO Patterson. § 87(2)(b) did not recognize PO Helliesen, PO Mochrie, or PO Kocienda but did recognize PO Patterson as the officer who had called an ambulance for her during the incident and had made her fill out a Domestic Incident Report.

**Witness:** § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) old at the time of the incident.

On January 26, 2012, Sgt. Nicholas Colavito of IAB interviewed § 87(2)(b) via telephone (encl. 6.47). § 87(2)(g)

After § 87(2)(b) punched § 87(2)(b) § 87(2)(b) punched him back. After § 87(2)(b) waved down the officers passing by, the officers approached § 87(2)(b) to ask him questions. § 87(2)(b) went "crazy" and spit at the police officers, pushed them, swung at them, and called them "faggots." The officers then pepper sprayed § 87(2)(b) and then grabbed his arms and rear handcuffed him. § 87(2)(b) did not describe any officers punch § 87(2)(b) or strike him with sticks. § 87(2)(b) did observe § 87(2)(b) throw himself to the ground while being led to a police car and bang his own head inside the police car. § 87(2)(b) did not observe any injuries on § 87(2)(b)

The CCRB left four voicemail messages for § 87(2)(b) between May 9, 2012 and May 22, 2012. Additionally, letters were sent to § 87(2)(b) on May 9, 2012 and May 15, 2012. § 87(2)(b) has not contacted the CCRB, and as of April 24, 2013, she was not incarcerated by the City or State of New York.

**Witness Contact Attempts**

The woman who tried to help § 87(2)(b) was unknown to § 87(2)(b) and neither § 87(2)(b) nor anyone else described her being present at the time when officers interacted with § 87(2)(b). § 87(2)(b) never provided § 87(2)(b) real name or contact information, and § 87(2)(b) never contacted the CCRB.

Investigating officers from IAB interviewed Denim Lounge doorman § 87(2)(b) and manager § 87(2)(b) on January 27, 2012 (encl. 6.48). § 87(2)(b) corroborated that a fight had occurred in the club, causing people to leave. However, neither § 87(2)(b) nor § 87(2)(b) witnessed any interaction between police and club patrons, nor did they witness the dispute between § 87(2)(b) and § 87(2)(b) § 87(2)(g)

**NYPD Statements:**

**Subject Officer: PO DERRICK MCINTOSH**

- PO McIntosh, a black man who stands 5'7" tall, weighs 200 lbs., has black hair and brown eyes, was § 87(2)(b) old at the time of the incident.
- Worked from 11:15 p.m. on January 24, 2012, to 7:50 a.m. on January 25, 2012, assigned to the 79<sup>th</sup> Precinct with Sgt. Tony Brown in a marked car, in uniform.

### **Memo Book Entries**

PO McIntosh had no memo book entries regarding the incident. PO McIntosh had the following entries regarding his whereabouts at the time of the incident: At 12:41 a.m., criminal summons issued at Fulton Street. At 1:59 a.m., criminal summons issued at Bedford Avenue and Fulton Street (encl. 7.63-7.64).

### **CCRB Statement**

PO McIntosh was interviewed at the CCRB on September 6, 2012 (encl. 7.65-7.67). On January 25, 2012, at approximately 1:16 a.m., PO McIntosh and Sgt. Brown were on patrol within the 79<sup>th</sup> Precinct when they received a radio call regarding an assault in progress or a call for help (PO McIntosh did not recall which) at Halsey Street and Bedford Avenue. PO McIntosh and Sgt. Brown were in close proximity to the location when they received the call and responded to the location immediately.

As PO McIntosh and PO Brown were driving on Halsey Street from Nostrand Avenue toward Bedford Avenue, PO McIntosh heard § 87(2)(b) yelling and cursing. PO McIntosh did not recall what she said. PO McIntosh observed § 87(2)(b) and § 87(2)(b) walking in the direction of PO McIntosh's vehicle. § 87(2)(b) was approximately five feet away from § 87(2)(b) walking away from her.

PO McIntosh and Sgt. Brown stopped, exited their car, and asked § 87(2)(b) if she had called the police. § 87(2)(b) said yes and told the officers that § 87(2)(b) had assaulted her. PO McIntosh did not recall if § 87(2)(b) specified where on her person she had been assaulted. PO McIntosh observed injuries on § 87(2)(b) but did not recall exactly what injuries he observed, stating that he may have observed scratches or bruises on § 87(2)(b)'s chest or arm. One or two minutes after PO McIntosh and Sgt. Brown arrived at the location, PO Jeanmarc Denis and PO Herman Kirton of the 79<sup>th</sup> Precinct arrived at the location. PO McIntosh did not recall any plainclothes officers participating in the incident.

PO McIntosh asked § 87(2)(b) who had stopped walking away when PO McIntosh and Sgt. Brown arrived, if he had any weapons. § 87(2)(b) said no. PO McIntosh did not ask § 87(2)(b) any questions about what had happened prior to his arrival. PO McIntosh told § 87(2)(b) that he was under arrest because § 87(2)(b) was injured and had accused him of assaulting her. PO McIntosh, PO Denis, and PO Kirton instructed § 87(2)(b) more than five times to put his hands behind his back, but § 87(2)(b) refused.

PO McIntosh then pepper sprayed § 87(2)(b) discharging his peppery spray once or twice from a distance of three feet away. No other officer pepper sprayed § 87(2)(b). Neither PO McIntosh nor any other officer made any attempt to physically restrain § 87(2)(b) prior to PO McIntosh pepper spraying him. The reason PO McIntosh pepper sprayed § 87(2)(b) without first attempting to physically restrain him was because § 87(2)(b) had already refused multiple instructions to put his hand behind his back to be arrested and because he was physically larger than him.

After § 87(2)(b) was pepper sprayed, PO McIntosh and the other officers handcuffed § 87(2)(b). § 87(2)(b) resisted being handcuffed by moving his body around and by going limp. PO McIntosh, PO Denis, and PO Kirton overcame § 87(2)(b)'s resistance by grabbing his arms. PO McIntosh did not recall if Sgt. Brown participated in handcuffing § 87(2)(b). PO McIntosh did not recall § 87(2)(b) grabbing hold of a gate while resisting being handcuffed. It took less than a minute to handcuff § 87(2)(b). At no point did PO McIntosh or any other

officer strike § 87(2)(b) on his arm or on any other part of his body with a baton, asp, or other blunt instrument.

After § 87(2)(b) was handcuffed, the officers waited for PO Tamiko Patterson and PO Brian Mochrie, who were assigned to the sector in which the incident had occurred, to arrive and take custody of § 87(2)(b). While they were waiting for PO Patterson and PO Mochrie to arrive, § 87(2)(b) cursed at § 87(2)(b) and the officers.

After PO Patterson and PO Mochrie arrived, officers—PO McIntosh did not recall who—escorted § 87(2)(b) to PO Patterson and PO Mochrie's car. PO McIntosh followed behind § 87(2)(b) and the officers and did not have his hands on § 87(2)(b). § 87(2)(b) passed by § 87(2)(b) as he was being led to the car, and he spit in her face. § 87(2)(b) did not lunge at § 87(2)(b) or attempt to use any other physical force against her. After § 87(2)(b) spit on § 87(2)(b) the officers hurried § 87(2)(b) past § 87(2)(b). PO McIntosh did not recall whether the officers put § 87(2)(b) against a car after he spit at § 87(2)(b) or at any other point in the incident. At no point did PO McIntosh or any other officer punch § 87(2)(b) in the face. At no point did PO McIntosh restrain § 87(2)(b)'s head with his hand or have any incidental contact between his hand and § 87(2)(b)'s face.

PO McIntosh did not observe § 87(2)(b) after he was put in PO Mochrie and PO Patterson's car. PO McIntosh did not see § 87(2)(b) throw himself against any hard surfaces at any point in the incident. PO McIntosh did not see § 87(2)(b)'s head have any contact with any hard surfaces at any point in the incident. PO McIntosh did not see § 87(2)(b) fall to the ground or be placed on the ground at any point in the incident. PO McIntosh did not observe any injuries on § 87(2)(b) during the incident or hear him complain of any injuries.

PO Patterson and PO Mochrie left with § 87(2)(b). Sgt. Brown and PO McIntosh then resumed patrol. PO McIntosh did not go back to the 79<sup>th</sup> Precinct stationhouse until his end of tour. PO McIntosh did not see § 87(2)(b) at the stationhouse or observe any blood on the walls of the prisoner holding cells.

**Witness Officer: SGT. TONY BROWN**

- *Sgt. Brown, a black Hispanic man who stands 5'10" tall, weighs 190 lbs., and has black hair and brown eyes, was § 87(2)(b) old at the time of the incident.*
- *Worked from 10:04 p.m. on January 24, 2012, to 8:02 a.m. on January 25, 2012, as the 79<sup>th</sup> Precinct patrol supervisor in marked car 5420 with PO McIntosh, in uniform.*

**Memo Book Entries**

At 1:10 a.m., arrived at Bedford Avenue and Halsey Street for dispute between five guys with sector C. At 1:16 a.m., one under arrest by Sector A, PO Patterson and PO Mochrie, for § 87(2)(b). Defendant § 87(2)(b) date of birth § 87(2)(b). At 3:15 a.m., notify IAB in regards under log #12-04918, Det. Philips. At 4:02 a.m., arrived at stationhouse with Duty Captain Polito in regards (encl. 7.42-7.44).

**IAB Statement**

On January 25, 2012, at 3:25 a.m., Sgt. Brown called the IAB Command Center to file this complaint (encl. 4.0). IAB log 12-06764 print-out notes that Sgt. Brown stated the following: Officers responded to a 10-34 (assault in progress) and § 87(2)(b) was holding on to the gate because he did not want to be arrested. Officers had to mace him, and he was arrested. While at the precinct, § 87(2)(b) stated that officers beat him up and that he would cash in. § 87(2)(b)

§ 87(2)(b) was placed in the cells where he continued to bang his head. EMS was called, and he was removed to § 87(2)(b). § 87(2)(b) has a bruise to his right eye and a cut to his forehead.

On March 9, 2012 and May 9, 2012, the CCRB sent requests to Chief Charles Campisi of IAB for copies of all materials contained in IAB's case file or prepared by the NYPD in connection with the incident. The requested materials were received at the CCRB on June 26, 2012. No audio recording of Sgt. Brown's call to the IAB Command Center was included in the materials.

### **CCRB Statement**

Sgt. Brown was interviewed at the CCRB on August 31, 2012 (encl. 7.45-7.47). § 87(2)(g)

§ 87(2)(b)

As Sgt. Brown and PO McIntosh approached § 87(2)(b) the latter balled his fists and stood with a posture which Sgt. Brown compared to a boxing stance and which made Sgt. Brown concerned that he intended to fight the officers. Sgt. Brown and PO McIntosh waited for approximately one minute for PO Denis and PO Kirton to arrive before getting any closer to § 87(2)(b). After they arrived, Sgt. Brown told § 87(2)(b) that he was under arrest and instructed him to put his hands behind his back. § 87(2)(b) did not comply. Sgt. Brown, PO McIntosh, PO Kirton, and PO Denis then approached § 87(2)(b) and tried to restrain his arms in order to handcuff him. § 87(2)(b) flailed his arms, kicked his feet, and grabbed hold of a gate. Sgt. Brown did not recall if § 87(2)(b) struck any officers. No officer struck § 87(2)(b) with a baton, asp, or other blunt instrument.

After less than a minute of the officers trying unsuccessfully to handcuff § 87(2)(b) PO McIntosh pepper sprayed § 87(2)(b). After being pepper sprayed, § 87(2)(b) let himself be handcuffed and calmed down.

Sgt. Brown did not recall which officers escorted § 87(2)(b) to PO Mochrie and PO Patterson's car, but did recall that while § 87(2)(b) was being escorted to the car, he lunged at § 87(2)(b) and spit at her. The officers escorting § 87(2)(b) restrained § 87(2)(b) by placing him against a car for less than a minute. No officer punched § 87(2)(b) in the face while he was placed against the car or at any other point in the incident.

§ 87(2)(b) refused to enter the police car and was physically guided into the car by officers. Sgt. Brown did not observe § 87(2)(b)'s behavior inside the car. Sgt. Brown did not observe any injuries on § 87(2)(b) and did not see his head strike any hard surfaces.

Sgt. Brown resumed patrol after the arrest of § 87(2)(b) and did not return to the stationhouse until 4:02 a.m. Sgt. Brown spoke with Capt. Michael Polito about the incident, and Capt. Polito prepared a UF-49 regarding the incident. Sgt. Brown did not see § 87(2)(b) at the stationhouse.

### **Subject Officer: PO TAMIKO PATTERSON**

- *PO Patterson, a black woman who stands 5'5" tall, weighs 175 lbs., and has black hair and brown eyes, was § 87(2)(b) old at the time of the incident.*
- *Worked from 11:15 p.m. on January 24, 2012, to 10:03 p.m. on January 25, 2013, assigned to patrol 79<sup>th</sup> Precinct sectors A, B, G, and M with PO Mochrie in marked car 4811, in uniform.*

### **Memo Book Entries**

PO Patterson had the following entries regarding the incident: At 1:11 a.m., 39 [other crime in progress] fight at corner of Halsey Street and Bedford Avenue. At 1:11 a.m., 34 [assault in progress] family at corner of Halsey Street and Bedford Avenue. At 1:16 a.m., one black male defendant under arrest. At 1:20 a.m.: in command. At 1:39 a.m., complainant/victim at 79<sup>th</sup> Precinct. DIR/EMS requested. At 1:28 a.m.: first ambulance: Ambulance Call Report § 87(2)(b) complainant/victim § 87(2)(b) Ambulance unit 57A. At 1:48 a.m., second bus called for perpetrator. Perpetrator resisted arrested at scene. Upon arrival at precinct stationhouse, perpetrator kept throwing body to the floor and refusing to comply. When perpetrator kept stating, “Yeah, I want you guys to fuck me up, fuck me up, I own you motherfuckers, that not my baby moms, my baby was born already, fuck her, she ain’t even got a scratch on her, fuck! I’ll own this precinct, I’m bleeding too, yeah! I got proof, fuck this shit, I got blood all over this motherfucker, you guys fucked me up, I going to get my lawyer, I got me a case. I want all yall name, number, especially you (meaning myself and partner PO Mochrie), fuck this and you a bitch fuck...” Perpetrator kept on making spontaneous remarks and spitting, flailing his body, trying to get away. Perpetrator in cell. I asked perpetrator to comply with me and stop cursing. Perpetrator informed me he was maced in the club. I asked if there was a fight at club. He refused to answer, continued to curse and make financial threats. I asked him what happened and what they argued over. He states, “Nothing, fuck dat bitch!” Perpetrator complains of pain in left shoulder. Perpetrator Ambulance Call Report #§ 87(2)(b) Name § 87(2)(b) At 3:44 a.m., arrested for 61 #§ 87(2)(b) for PL 120.00, assault in third degree; PL 205.30, resisting arrest; PL 240.20.1, disorderly conduct. At 4:38 a.m., arrest report. At 3:13 a.m., at § 87(2)(b) Perpetrator complained of pain in left shoulder. Small cut over right eye. At 8:46 a.m., AIDED #§ 87(2)(b) entered (encl. 7.00-7.05).

PO Patterson had the following entries regarding the incident written on the non-ruled fly paper of her memo book with no time entries noted: 39 [other crime in progress] in front of 1223 Bedford Avenue. Complainant/victim § 87(2)(b) Left side of face, cheeks, lip, welts on lower left of face. “He’s crazy. He’s the father of my baby.” Says undercover cop took her and stop the perpetrator then other officers came. Nine months together. Nine years friends. | 61# § 87(2)(b) § 87(2)(b) Spontaneous. “Yeah I want you guys to fuck me up. I own you mother fuckers. That’s not my baby moms, my baby was born already. Fuck her, she ain’t even got a scratch on her fuck! I’ll own this precinct. I’m bleeding too, yeah, I got proof, fuck this shit.” Perpetrator kept spitting in RMP while being transported to PCT. | Witness § 87(2)(b) (encl. 7.02-7.03).

### **Arrest Paperwork**

The arrest report regarding the arrest of § 87(2)(b) notes that force of type “other” was used to restrain, control, or remove § 87(2)(b) (encl. 7.20-7.21).

The Prisoner Pedigree Card prepared by PO Patterson notes the following under the “Physical/Mental Condition” of § 87(2)(b) cut to face. Intoxicated/disorderly. Non-cooperative (encl. 7.22)

The criminal complaint report and arrest report regarding the incident both contain the following: § 87(2)(b) states she was walking on the street when § 87(2)(b) called out her name. § 87(2)(b) continued to walk away when § 87(2)(b) ran up to her, punched her numerous times in the face and head, and pulled her hair. § 87(2)(b) also states § 87(2)(b) kept threatening to kill her when her sister (witness) and an unknown female helped her away from § 87(2)(b) § 87(2)(b) states that while trying to stop the cops, § 87(2)(b) ran off. § 87(2)(b) and witness followed § 87(2)(b) down the block, where he was apprehended by officers. § 87(2)(b)

§ 87(2)(b) also states that while § 87(2)(b) was being arrested he was fighting with officers and was refusing to be handcuffed. Upon my (PO Patterson's) arrival, § 87(2)(b) kept flailing his body around, cussing and refusing to move. When § 87(2)(b) noticed § 87(2)(b) he spat on her and kept on spitting. § 87(2)(b) was restrained in handcuffs and had to be lifted up and taken to the RMP. § 87(2)(b) sustained swelling and redness of the left of his face and a bruise to the left side of his bottom lip. § 87(2)(b) is nine months pregnant and states that § 87(2)(b) is the father of her unborn child. § 87(2)(b) was transported to § 87(2)(b) (encl. 7.18-7.21).

### **Domestic Incident Report**

A Domestic Incident Report prepared by PO Patterson contains the following narrative: At time and place of occurrence, § 87(2)(b) states § 87(2)(b) saw her in the street, ran up to her, punched her to the floor. § 87(2)(b) states her sister, the witness, helped her up and pushed § 87(2)(b) off her while she was on the ground. While § 87(2)(b) was walking away, § 87(2)(b) ran her down the block. § 87(2)(b) is nine months pregnant with § 87(2)(b)'s unborn child. § 87(2)(b) has redness and swelling to the left side of her face and left eye and a bruised left side of lip. Also swelling of lower face. § 87(2)(b) requested medical attention and was transported to § 87(2)(b). § 87(2)(b), § 87(2)(f) (encl. 7.26).

### **AIDED**

The AIDED regarding the medical treatment of § 87(2)(b) contained the following narrative: At the time and place of occurrence, § 87(2)(b) was punched in her face and head numerous times and sustained swelling and redness to the left side of her face and a bruise to her left bottom lip. § 87(2)(b) is nine months pregnant and was removed to § 87(2)(b) (encl. 7.29-7.35).

### **Criminal Court Complaint**

The criminal court complaint signed by PO Patterson regarding the charges against § 87(2)(b) notes that he was charged with assault in the third degree, resisting arrest, attempting assault in the third degree, menacing in the third degree, disorderly conduct, and harassment in the second degree (encl. 7.25). § 87(2)(g)

The court complaint contains the following statement regarding § 87(2)(b) resisting arrest: "Deponent [PO Patterson] states that at the [place] of occurrence, which was in public, the defendant § 87(2)(b) did resist a lawful arrest in that the defendant held onto a gate and dragged defendant's feet refusing to be handcuffed and that defendant repeatedly spit at deponent and banged defendant's head inside a police vehicle."

During her CCRB interview, PO Patterson stated that she felt the above passage from the court complaint contained the following inaccuracies (encl. 7.36-7.40):

- 1) The passage gives the inaccurate impression that PO Patterson witnessed the entirety of the events described therein. PO Patterson stated that she did not witness § 87(2)(b) hold onto a gate, drag his feet, or refuse to be handcuffed but instead had been informed of these events by PO McIntosh.
- 2) The passage inaccurately states that § 87(2)(b) spit at PO Patterson. PO Patterson stated that § 87(2)(b) spit at § 87(2)(b) not at herself.
- 3) The wording of the passage gives the inaccurate impression that PO Patterson "banged" § 87(2)(b)'s head inside a police vehicle. PO Patterson denied that she "banged" § 87(2)(b)

§ 87(2)(b) s head inside a police vehicle and stated that the complaint should read that § 87(2)(b) “banged” his own head inside a police vehicle.

§ 87(2)(g)

### **CCRB Statement**

PO Patterson was interviewed at the CCRB on August 25, 2012 (encl. 7.36-7.40). § 87(2)(g)

PO Patterson and PO Mochrie arrived at the location and saw § 87(2)(b) in police custody on the north side of Halsey Street between Bedford Avenue and Nostrand, a few house-lengths east of the intersection with Bedford Avenue. § 87(2)(b) rear handcuffed and being held from behind by PO McIntosh. Also at the arrest location were § 87(2)(b) who was pregnant; § 87(2)(b) Sgt. Brown; PO Denis; PO Kirton; and other, unidentified officers. Additionally, PO Shibu Madhu and PO Awais Mazhar were at the corner of Bedford Avenue and Halsey Street, several feet away from the arrest location. As PO Patterson arrived, some unidentified plainclothes officers were leaving the location in an unmarked car.

Sgt. Brown told PO Patterson that because the incident had occurred in her assigned sector, she would be the arresting officer. PO Patterson approached § 87(2)(b) and told her that she would take her statement about the incident at the stationhouse. While PO Patterson was talking to § 87(2)(b) an officer—PO Patterson did not recall who—began to escort § 87(2)(b) to PO Patterson’s car. § 87(2)(b) threw himself onto the hood of a car parked by the sidewalk and refused to move. No officer pushed § 87(2)(b) onto the hood of the car or punched him. Officers—PO Patterson did not recall which—picked § 87(2)(b) up and escorted him to PO Patterson’s car.

§ 87(2)(b) refused to enter PO Patterson’s car and had to be physically pulled into the car. § 87(2)(b) repeatedly kicked the car door to prevent it from being closed. Other than the above-described actions taken by officers to restrain § 87(2)(b) and put him in PO Patterson’s car, PO Patterson did not observe any use of force by any officers against § 87(2)(b) whatsoever. PO Patterson did not witness PO McIntosh or any other officer pepper spray § 87(2)(b) punch him in the face, or restrain § 87(2)(b) by his head and did not take any these actions herself.

PO Mochrie and PO Patterson transported § 87(2)(b) to the stationhouse, during which drive § 87(2)(b) flailed his body around in the back seat, spit all over the interior of the car, and spit at PO Mochrie and PO Patterson by leaning forward and putting his head against the cage partition. PO Patterson did not witness § 87(2)(b) deliberately strike his own head against any surfaces in the car. During the drive, § 87(2)(b) stated that he wanted police to “fuck [him] up.”

Upon arriving at the stationhouse, § 87(2)(b) refused to exit the police car and went limp inside the car. PO Patterson and PO Mochrie physically guided § 87(2)(b) out of the car and escorted § 87(2)(b) into the stationhouse. No other officers assisted PO Patterson and PO Mochrie in escorting § 87(2)(b) into the stationhouse. Neither PO Patterson nor PO Mochrie struck § 87(2)(b) against any walls or hard surfaces in the stationhouse. PO Patterson did not

witness any officer use any physical force whatsoever against § 87(2)(b) at the stationhouse. PO Patterson did not witness any officer other than herself and PO Mochrie have any physical interaction with § 87(2)(b) at the stationhouse.

§ 87(2)(b) initially walked on his own to the stationhouse. However, as PO Patterson opened the exterior door of the stationhouse vestibule, § 87(2)(b) fell to the ground. PO Patterson described this fall both as § 87(2)(b) “throwing himself” to the ground and as him going limp. When § 87(2)(b) fell, PO Mochrie was holding him by one arm and PO Patterson was holding him by the other arm. PO Patterson’s grip on § 87(2)(b) was light because he had been walking on his own prior to going limp. § 87(2)(b) fell all the way to the ground. PO Patterson did not recall in what position § 87(2)(b) landed or whether he fell to his knees before falling all the way down. PO Patterson did not observe whether § 87(2)(b) hit his head on the ground when he fell because she was paying attention to opening the door when § 87(2)(b) fell.

PO Patterson repeatedly told § 87(2)(b) to get up but he did not comply. PO Patterson and PO Mochrie picked § 87(2)(b) up and carried him directly to a holding cell without first taking him to the front desk. § 87(2)(b) repeatedly stated that he now owned the officers and the 79<sup>th</sup> Precinct. PO Patterson and PO Mochrie put § 87(2)(b) in a cell by himself. PO Patterson did not physically restrain § 87(2)(b) inside the cell or strike him against any walls or hard surfaces and did not observe any other officer do so, including the cell attendant, PO Randy Williams. § 87(2)(b) stood up on the seat in the cell, jumped up and down on the seat, and yelled that the police had “fucked [him] up,” that he had injuries to prove it, and that he was going to get a lawyer.

§ 87(2)(b) twice pressed his head against the wall and smeared blood from this head along the in long lines across the wall. This was the first time that PO Patterson became aware that § 87(2)(b) was injured. PO Patterson then observed blood on § 87(2)(b)’s hair by his hairline. PO Patterson pushed back § 87(2)(b)’s hair to examine the cause of the bleeding and observed a small cut on the right side of § 87(2)(b)’s head that was still bleeding. § 87(2)(b) did not state how he had incurred the injury. PO Patterson did not observe any other injuries on § 87(2)(b).

PO Patterson had an ambulance called for § 87(2)(b). PO Mochrie went with § 87(2)(b) to the hospital while PO Patterson stayed at the stationhouse to prepare arrest paperwork. While doing her arrest paperwork, PO Patterson asked PO Macintosh to tell her what had happened at the location. PO McIntosh told PO Patterson that § 87(2)(b) had refused to be handcuffed, had held onto a gate at the arrest location and refused to let go, and had cursed and behaved disorderly. PO McIntosh told PO Patterson that he had pepper sprayed § 87(2)(b) and that officers had restrained § 87(2)(b)’s arms to handcuff him.

**Subject Officer: PO BRIAN MOCHRIE**

- *PO Mochrie, a white man who stood 6’ 6” tall, weighed 250 lbs., and had brown hair and brown eyes, was § 87(2)(b) old at the time of the incident.*
- *Worked on from, 11:15 p.m. on January 24, 2012, to 7:50 a.m. on January 25, 2012, assigned to patrol 79<sup>th</sup> Precinct sectors B, G, and M and worked with PO Patterson in marked car 4811, in uniform.*

**Memo Book Entries**

At 1:11 a.m., 39 [other crime in progress] multiple people fighting at corner of Halsey Street and Bedford Avenue. At 1:15 a.m., arrived. Bouncer and people fighting and fled. At 1:20 a.m., 34



[assault in progress] female assaulted at same location. 79<sup>th</sup> Precinct sergeant on scene. One male in custody half block down Halsey street. At 1:21 a.m., arrived with sergeant. Complainant/victim at location. Perpetrator attempted to attack complainant/victim and spit at complainant/victim, lunged at complainant/victim. Perpetrator taken to ground. Attempted to put perpetrator in RMP. Perpetrator refused to enter RMP, non-compliant. Once in car, started spitting on myself and partner en route to 79<sup>th</sup> Precinct stationhouse. Criminal arrest time 1:16 a.m. Once at stationhouse, perpetrator tried to stay in RMP. Had to pull out of RMP. Perpetrator continued to spit. Perpetrator did have cut to forehead. At 2:10 a.m., escorted perpetrator to hospital. Ambulance call report # § 87(2)(b). At § 87(2)(b): arrived at § 87(2)(b) At 6:50 a.m., called desk for relief. At 7:20 a.m., relieved by day tour. End of tour. (Encl. 7.49-7.52)

### **CCRB Statement**

PO Mochrie was interviewed at the CCRB on August 31, 2012 (encl. 7.53-7.56). § 87(2)(g)

PO Mochrie and another officer—he did not recall who—guided § 87(2)(b) to PO Mochrie’s car by grabbing him by the arms and escorting him. As they walked § 87(2)(b) past § 87(2)(b) § 87(2)(b) § 87(2)(b) lunged toward her, causing § 87(2)(b) PO Mochrie, and the officer assisting him to fall down. PO Mochrie did not know if § 87(2)(b) hit his head when he fell to the ground. PO Mochrie and the officer assisting him pulled § 87(2)(b) off the ground and guided him to PO Mochrie’s car. PO Mochrie did not recall if he put § 87(2)(b) against the side of any car in order to restrain him at any point in the incident. No officer punched § 87(2)(b) at the arrest location. PO Mochrie did not observe § 87(2)(b) hit his head on the interior of the car while being transported to the stationhouse.

§ 87(2)(b) resisted being escorted into the stationhouse by abruptly shifting his weight and walking to his right or left rather than straight into the stationhouse. § 87(2)(b) collided with objects, including a trashcan, two or three times when he did this. PO Mochrie did not observe § 87(2)(b) hit his head on any of these objects. At least two other officers—PO Mochrie did not recall who—came to PO Mochrie’s aid and grabbing and helping guide § 87(2)(b) into the stationhouse.

As § 87(2)(b) PO Mochrie, and the officers crossed the threshold of the stationhouse door, they lost balance and all fell down. § 87(2)(b) fell all the way to the ground. PO Mochrie did not see if § 87(2)(b) hit his head on the ground when he fell. § 87(2)(b) went limp and refused to get up. Officers picked § 87(2)(b) off the ground, and PO Mochrie noticed a few dabs of blood on the floor in the area where he, § 87(2)(b) and the officers had fallen. PO Mochrie did not know whose blood was on the floor. Officers picked § 87(2)(b) up and guided him to a holding cell while PO Mochrie checked himself to make sure he was not bleeding.

PO Mochrie then went to § 87(2)(b)’s cell and observed a cut on § 87(2)(b) forehead that was bleeding. PO Mochrie did not know how § 87(2)(b) incurred this injury. PO Mochrie asked § 87(2)(b) what had happened and § 87(2)(b) cursed and spat at him. PO Mochrie did not recall observing blood on the cell wall at any point. Neither PO Mochrie nor any other officer physically restrained § 87(2)(b) inside the cell or hit § 87(2)(b) against any hard surfaces in his cell.

PO Mochrie transported § 87(2)(b) to § 87(2)(b) where PO Mochrie asked § 87(2)(b) what had happened before he had been arrested. § 87(2)(b) told PO Mochrie that

he had gotten into a fight with his girlfriend and had been involved in a fight at the club. § 87(2)(b) stated words to the effect of, “look what they did to me,” but did not specify who he was talking about. When was relieved at the hospital, he PO Mochrie returned to his car and noticed what he believed to be blood and saliva all over the windows, seats, and the partition of the car.

**Subject Officer: PO SCHIBHU MADHU**

- *PO Madhu, an Asian man who stands 5’11” tall, weighs 210 lbs., and has black hair and brown eyes, was § 87(2)(b) old at the time of the incident.*
- *Worked from 11:15 p.m. on January 24, 2012, to 7:50 a.m. on January 25, 2012, assigned to patrol 79<sup>th</sup> Precinct sectors D, I and P in marked car 3145 with PO Mazhar, in uniform.*

**Memo Book Entries**

At 1:15 a.m., backed up officers assigned to 79<sup>th</sup> Precinct Sector A on crime in progress: group fighting at Bedford Avenue and Halsey Street. At 1:22 a.m., arrived at 79<sup>th</sup> Precinct stationhouse with Sector A – one under arrest by Sector A. At 1:35 a.m., resumed patrol (encl. 7.92-7.94).

**CCRB Statement**

PO Madhu was interviewed at the CCRB on October 1, 2012 (encl. 7.95-7.97). At the time of the incident, PO Madhu and PO Mazhar responded to a radio call regarding a group fighting at Bedford Avenue and Halsey Street in Brooklyn. PO Madhu and PO Mazhar arrived at the location concurrently with PO Patterson and PO Mochrie. § 87(2)(g)

At the arrest location, PO Madhu assisted PO Mochrie in escorting § 87(2)(b) to PO Mochrie’s car. PO Madhu did not observe PO McIntosh or any other officer punch § 87(2)(b). When PO Mochrie and PO Patterson transported § 87(2)(b) to the stationhouse, PO Madhu and PO Mazhar to the stationhouse separately in case PO Mochrie and PO Patterson would need their assistance dealing with § 87(2)(b) there.

PO Madhu assisted PO Mochrie in escorting § 87(2)(b) from PO Mochrie’s car to the holding cell. PO Madhu and PO Mochrie lost balance and fell down at least twice—once outside the stationhouse and once inside the stationhouse—while escorting § 87(2)(b) from the car to the prisoner holding cells. PO Madhu did not recall whether § 87(2)(b)’s head hit any hard surfaces when he fell. § 87(2)(b) was limp the entire time that he was being carried.

PO Madhu did not hit § 87(2)(b) against any walls or hard surfaces at the stationhouse or in the holding cell and did not see any other officer do so. PO Madhu did not observe recall observing any injuries on § 87(2)(b) and did not recall seeing his head strike any hard surfaces at any point.

**Witness Officer: PO AWAIS MAZHAR**

- *PO Mazhar, an Asian man who stands 6’2” tall, weighs 190 lbs., and has brown eyes and black hair, was § 87(2)(b) old at the time of the incident.*
- *Worked from 11:15 p.m. on January 24, 2012, to 7:50 a.m. on January 25, 2012, assigned to patrol 79<sup>th</sup> Precinct sectors D, I, and P with PO Madhu in marked car 3145, in uniform.*

**Memo Book Entries**

At 1:15 a.m., backing officers assigned to 79<sup>th</sup> Precinct A on 10-39 [crime in progress]: group fighting at Bedford and Halsey. At 1:22 a.m., arrived at 79<sup>th</sup> Precinct stationhouse with 79A's one defendant under arrest. At 1:35 a.m., resumed patrol (encl. 7.104-7.106).

#### **CCRB Statement**

PO Mazhar was interviewed at the CCRB on October 9, 2012 (encl. 7.107-7.109). § 87(2)(g) PO Mazhar did not observe any officer punch § 87(2)(b) at the arrest location. PO Mazhar was parking his and PO Madhu's car while PO Madhu assisted PO Mochrie and PO Patterson in escorting § 87(2)(b) into the stationhouse. Therefore PO Mazhar close attention to what the officers and § 87(2)(b) at the time. PO Mazhar observed that § 87(2)(b) was not walking on his own and, though he did not see the moment that § 87(2)(b) and the officers fell to the ground, he saw them on the ground after they fell. After PO Mazhar finished parking the car, he followed PO Madhu, PO Mochrie, and PO Patterson as they brought § 87(2)(b) to the holding cell, but he did not assist them in doing so. PO Mazhar did not observe any officer other than PO Madhu assist PO Mochrie and PO Patterson in escorting § 87(2)(b) into the stationhouse. PO Mazhar did not hit § 87(2)(b) against the walls of the stationhouse or holding cell and did not witness any other officer do so. PO Mazhar did not recall observing any injuries on § 87(2)(b) and did not recall seeing his head strike any hard surfaces at any point.

#### **Subject Officer: PO JEANMARC DENIS**

- *PO Denis, a black man who stands 5'8" tall, weighs 178 lbs., and has black hair and brown eyes, was § 87(2)(b) old at the time of the incident.*
- *Worked from 11:15 p.m. on January 24, 2012, to 7:50 a.m. on January 25, 2012, assigned to patrol 79<sup>th</sup> Precinct sectors C, H, and N in marked car 5169 with PO Kirton, in uniform.*

#### **Memo Book Entries**

PO Denis did not have any memo book entries regarding the incident. PO Denis had the following memo book entries regarding his whereabouts : At 12:05 p.m., sergeant inspected. At 1:38 a.m., family dispute at § 87(2)(b) (encl. 7.69-7.71).

#### **CCRB Statement**

PO Denis was interviewed at the CCRB on September 11, 2012 (encl. 7.72-7.73). PO Denis did not recall the incident.

#### **Subject Officer: PO HERMAN KIRTON**

- *PO Kirton, a black man who stands 5'9" tall, weighs 170 lbs., is bald and has brown eyes, was § 87(2)(b) old at the time of the incident.*
- *Worked from 11:35 p.m. on January 24, 2012, to 7:50 a.m. on January 25, 2012, assigned to patrol 79<sup>th</sup> Precinct sectors C, H, and N with PO Denis in marked car 5169, in uniform.*

#### **Memo Book**

PO Kirton did not have any memo book entries regarding this incident. PO Kirton had the following memo book entries regarding his whereabouts at the time of the incident: At 12:05 a.m., inspected by sergeant. At 1:38 a.m., dispute at § 87(2)(b) (encl. 7.75-7.77).

#### **CCRB Statement**

PO Kirton was interviewed at the CCRB on September 12, 2012 (encl. 7.78-7.79). PO Kirton did not recall the incident.

**Witness Officer: PO CHRISTOPHER KOCIENDA**

- *PO Kocienda, a white man who stands 5'10" tall, weighs 180 lbs., and has blonde hair and blue eyes, was § 87(2)(b) old at the time of the incident.*
- *Worked from 11:35 p.m. on January 24, 2012, to 7:50 a.m. on January 25, 2012, assigned to patrol 79<sup>th</sup> Precinct sectors E, J, and Q in marked car #3488 with PO Helliesen, in uniform.*

**Memo Book Entries**

At 1:13 a.m., dispute at Halsey Street and Bedford Avenue. At 1:33 a.m., resuming patrol. At 1:34 p.m., alarm at § 87(2)(b) (encl. 7.81-7.82).

**CCRB Statement**

PO Kocienda was interviewed at the CCRB on September 13, 2012 (encl. 7.83-7.84). PO Kocienda did not recall the incident.

**Witness Officer: PO JAMES HELLIESEN**

- *PO Helliesen, a white man who stands 6'0" tall, weighs 240 lbs., and has hazel eyes and brown hair, was § 87(2)(b) old at the time of the incident.*
- *Worked from 11:15 p.m. on January 24, 2012, to 7:50 a.m. on January 25, 2012, assigned to patrol 79<sup>th</sup> Precinct sectors E, J, and Q in marked car 3488 with PO Kocienda, in uniform.*

**Memo Book Entries**

At 1:13 a.m., backed up 10-50 [disorderly person/group] at Bedford Avenue and Halsey Street. At 1:33 a.m., resumed patrol. At 1:33 a.m., 10-11 alarm at § 87(2)(b) (encl. 7.86-7.88).

**CCRB Statement**

PO Helliesen was interviewed at the CCRB on September 28, 2012 (encl. 7.89-7.90) PO Helliesen did not recall the incident.

**Witness Officer: SGT. MATTHEW MONKOWSKI**

- *Sgt. Monkowski, a white man who stands 5'6" tall, weighs 160 lbs., and has brown hair and blue eyes, was § 87(2)(b) old at the time of the incident.*
- *Worked from 11:05 p.m. on July 24, 2012, to 8:02 a.m. on July 25, 2012 as the 79<sup>th</sup> Precinct stationhouse desk officer.*

**Witness Officer: PO JOHN BALESTRIERE**

- *PO Balestriere, a white man who stands 5'7" tall, weighs 165 lbs., and has brown hair and brown eyes, was § 87(2)(b) old at the time of the incident.*
- *Worked from 11:10 p.m. on January 24, 2012, to 10:50 a.m. on January 25, 2012 as the 79<sup>th</sup> Precinct stationhouse telephone switchboard operator, in uniform.*

**Witness Officer: PO RANDY WILLIAMS**

- *PO Williams, a black man who stands 5'8" tall, weighs 265 lbs., is bald and has brown eyes was § 87(2)(b) old at the time of the incident.*
- *Worked from 11:15 p.m. on January 24, 2012 to 7:50 a.m. on January 25, 2012, as the 79<sup>th</sup> Precinct stationhouse cell attendant in uniform.*

### **Memo Book Entries**

PO Balestriere, Sgt. Monkowski, and PO Williams had no memo book entries regarding the incident (encl. 7.99-7.100, 7.58-7.59, 7.111-7.112).

### **Prisoner Holding Pen Roster**

The prisoner holding pen roster prepared by PO Williams notes that § 87(2)(b) was detained in the prisoner holding cells from 1:25 a.m. to 2:10 a.m. (encl. 7.113).

### **CCRB Statements**

Sgt. Monkowski, PO Balestriere, and PO Balestriere were interviewed at the CCRB on August 30, 2012, October 1, 2012, and October 17, 2012, respectively, (encl. 7.60-7.61, 7.101-7.102, 7.114-7.115). Neither Sgt. Monkowski, PO Helliesen, nor PO Balestriere recalled the incident. Sgt. Monkowski examined the 79<sup>th</sup> Precinct command log entry documenting the arrest of § 87(2)(b) and confirmed that he wrote the entry. PO Williams reviewed a copy of the Prisoner Holding Pen Roster and confirmed that he wrote the entry documenting the detention of § 87(2)(b) § 87(2)(b).

### **Medical Records**

The ambulance call report regarding the treatment of § 87(2)(b) noted that the ambulance responded to Halsey Street between Bedford Avenue and Nostrand Avenue at 1:40 a.m. § 87(2)(b) had swelling to her face and lower back pain caused by an assault. The report contains the following narrative: § 87(2)(b)-year-old female found alert and ambulatory in 79th Precinct with police. Complained of being assaulted. Patient states she was assaulted by her baby daddy. Patient states she was hit three times in the head. Patient then states she was knocked down to the floor. Minor swelling to the left cheek of face, no other injuries noted. Patient states she is nine months pregnant. Due date § 87(2)(b) (encl. 8.04-8.05).

The ambulance call report regarding the treatment of § 87(2)(b) noted that ambulance arrived at the 79th Precinct stationhouse at 1:51 a.m. § 87(2)(b) had pain and a soft tissue injury to his eye caused by an assault. The presumptive diagnosis was listed as second degree blunt force trauma. § 87(2)(b)'s chief complaint was listed as "my eye the[y] hit me in it." The report contains the following narrative: § 87(2)(b)-year-old male found standing in cell. AIDED by NYPD. Patient states "I was pushed to the wall and hit my face." Soft tissue injury. over patient's right eye. Pain of 2 on scale. Patient was treated with wound pressing and transported to hospital (encl. 8.06-8.07).

Medical records regarding the treatment of § 87(2)(b) at § 87(2)(b) note that he was initially evaluated at the emergency room at § 87(2)(b) and that his chief complaint was injuries to his right eyebrow and left shoulder and loss of consciousness (encl. 8.09). The context of these injuries was noted as head trauma with loss of consciousness. § 87(2)(b) was noted to be in moderate pain. An injury to § 87(2)(b)'s right eyebrow was both noted and diagramed. The injury to § 87(2)(b)'s right eyebrow noted in medical records corresponds to that which he later told the CCRB interview he incurred during the incident. There is no notation of the knot on

the right side of § 87(2)(b)'s forehead, which he told the CCRB had not been incurred during the incident.

The primary admitting diagnosis of § 87(2)(b) was head trauma with loss of consciousness (encl. 08). Urinalysis conducted at 2:45 a.m. found unconfirmed traces of cannabinoids, and a blood test conducted at the same time found an alcohol-to-blood ratio of 63 mg/dL (encl. 8.24, 8.26). It was noted that this alcohol-to-blood ratio is correlated with mild impairment of vision and is beneath the threshold of legal intoxication, which is 80 mg/dL (encl. 8.26).

CT scans and X-rays were taken of the following parts of § 87(2)(b)'s body with the following reasons provided for the examination of each body part: abdomen for "abdominal trauma," pelvis for "abdominal trauma" and "trauma," right hand for "right hand injury," chest for "trauma," left shoulder for "pain," facial bones for "head trauma with laceration to right eyebrow," the cervical region of the spine for "trauma," and the head for "trauma with loss of consciousness." No fractures, soft tissue damage, or other injuries were found to any of these areas (encl. 8.11-8.19)

### **NYPD Documents**

#### ***911 Audio Recordings***

On January 25, 2012, at 1:06 a.m., an anonymous female called 911 and stated that a group of approximately five males were fighting and threatening shooting outside 1223 Bedford Avenue at Willoughby Avenue in Brooklyn. The caller stated that individuals stated that they had weapons but the female caller did not know if any weapons were present (encl. 9.00-9.01).

At 1:11 a.m., an anonymous female, identified by the CCRB investigation as § 87(2)(b) called 911 that she was pregnant and that a male had punched her in the face. § 87(2)(b) also stated that the male had punched her in her lip. The 911 operator tried to ask § 87(2)(b) questions, but § 87(2)(b) ignored the operator for the rest of the call. § 87(2)(b) can be heard apparently talking to a third party at her location, stating repeatedly that she was pregnant, that § 87(2)(b) had punched her, and that she wanted him locked up. § 87(2)(b) can be heard repeatedly pointing § 87(2)(b) out to the third party as "this one" or "that one." § 87(2)(b) can be heard repeatedly stating that he did not do anything. The call lasted for one minute and 37 seconds until the 911 operator disconnected because § 87(2)(b) was not responding to her (encl. 9.00, 9.02).

#### ***Police Communications Records***

At 1:06 a.m., the police radio dispatcher asked the 79th Precinct Sector A unit, identified by investigation as PO Patterson and PO Mochrie, to respond to a report of five males fighting at 1223 Bedford Avenue. The dispatcher stated that it was unknown whether weapons or injuries were involved. PO Patterson stated that they had responded.

At 11:11 a.m., the dispatcher asked Sector A unit to respond to an assault in progress on Halsey Street near Bedford Avenue. The dispatcher stated that a female had been assaulted. The 79th Precinct patrol supervision unit, identified by investigation as Sgt. Brown and PO McIntosh, immediately responded, stating that he was already at the location of the assault in progress and that he wanted Sector A to respond. PO Patterson stated that they were on their way.

At 1:15 a.m., the dispatcher asked the 79th Precinct Sector E unit, identified by investigation as PO Helliesen and PO Kocienda, to respond to a report of an alarm at § 87(2)(b). Sector E

responded that they were currently with Sgt. Brown at Halsey Street near Bedford Avenue and would respond to the alarm once they were done there.

At 1:16 a.m., PO Mochrie announced that one arrest had been made and verified by a sergeant at Halsey Street near Bedford Avenue. The dispatcher asked Sector A what had happened regarding the report of males fighting at 1223 Bedford Avenue, and PO Mochrie replied that it was the same incident as the assault at Halsey Street near Bedford Avenue.

At 1:28 a.m., PO Patterson requested that an ambulance respond to Halsey Street near Bedford Avenue to assist an injured complainant, and PO Helliesen and PO Kocienda stated that they were leaving the location to respond to a report of an alarm at § 87(2)(b). At 1:48 a.m., an unidentified officer from the 79th Precinct stationhouse called the dispatcher and asked for an ambulance to respond for an injured perpetrator (encl. 9.00-9.02).

### ***Command Log***

The 47<sup>th</sup> Precinct Command Log notes that § 87(2)(b) arrived at the stationhouse at 1:22 a.m. on January 25, 2012 (encl. 9.03). It was noted that there was a cut and swelling on § 87(2)(b)'s head. § 87(2)(b) was transported to the hospital by EMS at 2:15 a.m.. § 87(2)(b) arrived back at the stationhouse at 12:15 p.m. on January 26, 2012 and was taken to Brooklyn Central Booking at 4:34 p.m. The command log additionally notes that Capt. Michael Polito of Patrol Borough Brooklyn North visited at the stationhouse at 4:02 a.m. on January 26, 2012 (encl. 9.04).

### ***IAB Photographs***

On January 25, 2012, at approximately 6:00 a.m., investigating officers from IAB Group 9 photographed the cell in which § 87(2)(b) had been held at the 79<sup>th</sup> Precinct stationhouse (encl. 6.07-6.10). The photographs display no blood on the walls, and the officers' report notes that no blood was found on the walls.

### ***Duty Captain Report***

On January 25, 2012, Capt. Polito prepared a report noting that he had interviewed § 87(2)(b) at § 87(2)(b) and briefly summarizing the facts of the incident and the allegations made by § 87(2)(b) (encl. 9.05-9.06). § 87(2)(g)

§ 87(2)(b) Capt. Polito determined that "necessary force was used by the officers to effect an arrest, and that the perpetrator was injured either during the arrest or by butting his head against the cell wall at the 79<sup>th</sup> Precinct." Capt. Polito recommended that IAB continue to investigate the incident and did not recommend any duty status changes for any officers who participated in the incident.

### ***Roll Call***

The 47<sup>th</sup> Precinct Roll Call from Tour 1 on January 25, 2012 notes that the following: Sgt. Brown was assigned to be patrol officer and PO McIntosh was his operator. PO Patterson and PO Mochrie assigned to sectors A, B, G, and M in car 4811. PO Madhu and PO Mazhar were assigned to sectors D, I and P in car 3145. PO Denis and PO Kirton were assigned to sectors C, D, H, and I in car 5169. PO Kocienda and PO Helliesen were assigned to sectors E, J, and Q in car 3488. Sgt. Monkowski was assigned as desk sergeant, PO Balestriere as telephone switchboard operator, and PO Williams as cell attendant (encl. 9.07-9.11)

### **Other Evidence**

Investigating officers from IAB made inquiries for surveillance footage of the incident at 1223 Bedford Avenue and 1240 Bedford Avenue, both of which addresses are located at the intersection of Bedford Avenue and Halsey Street (6.48-6.50). No surveillance footage of the incident could be found. No efforts were made by the CCRB to contact these locations again because the arrest of § 87(2)(b) did not occur at the intersection of Bedford Avenue and Halsey Street but several house-lengths away on Halsey Street between Bedford Avenue and Nostrand Avenue.

#### **Arrest for Incident and Disposition**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

#### **Status of Civil Proceedings**

- § 87(2)(b) had not filed a Notice of Claim with the City of New York regarding the incident as of April 22, 2013, over 11 months past the filing deadline.

#### **Civilian Criminal History**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

#### **Civilians CCRB History**

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 3.0).

#### **Subject Officer CCRB Histories**

- PO Denis has been a member of service for 16 years, and there are no substantiated CCRB allegations against him (encl. 2.0).
- PO Kirton has been a member of service for 20 years, and there are no substantiated CCRB allegations against him (encl. 2.1).
- PO Madhu has been a member of service for five years. In case 200912984, allegations that PO Madhu used physical force and entered and searched a location were substantiated. The NYPD declined to prosecute PO Madhu (encl. 2.2).
- PO McIntosh has been a member of service for eight years, and there are no substantiated CCRB allegations against him. (encl. 2.3).
- PO Mochrie and PO Patterson have both been members of service for four years, and there are no substantiated CCRB allegations against either of them (encl. 2.4-2.5).

#### **Conclusion**

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### Allegations Not Pled

§ 87(2)(g)

### Identification of Subject Officers

PO McIntosh, PO Madhu, PO Mochrie, and PO Patterson confirmed their participation in the incident.

§ 87(2)(b) did not know which officers participated in striking him against the walls of the stationhouse and holding cell while escorting him from a police car to the holding cell. PO Madhu, PO Mochrie, and PO Patterson are the only officers who admitted to escorting § 87(2)(b) into the stationhouse and holding cell. PO Mazhar witnessed PO Madhu, PO Mochrie, and PO Patterson escorting § 87(2)(b) into the stationhouse and stated that he did not recall any additional officers helping them. PO Mazhar's statement supports The memo books of all the other officers who participated in the arrest of § 87(2)(b)—Sgt. Brown, PO McIntosh, PO Denis, PO Kirton, PO Helliesen, and PO Kocienda—all indicate that they resumed patrol after the incident. § 87(2)(g)

PO Kirton and PO Denis did not recall the incident, but Sgt. Brown, PO McIntosh, and PO Patterson stated that they participated in the incident. § 87(2)(g)

### Investigative Findings and Recommendations

**Allegation A – Force: PO Derrick McIntosh struck § 87(2)(b) with a blunt instrument on Halsey Street between Bedford Avenue and Nostrand Avenue in Brooklyn.**

**Allegation B – Force: PO Derrick McIntosh used pepper spray against § 87(2)(b) on Halsey Street between Bedford Avenue and Nostrand Avenue in Brooklyn.**

It is undisputed that § 87(2)(b) resisted being arrested by refusing verbal commands to let himself be handcuffed and by physically evading being handcuffed.

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b) stated that he was holding on to a gate to prevent himself from being arrested when PO McIntosh struck his right hand four times and his left hand with a blunt instrument and then pepper sprayed him. § 87(2)(b) told IAB that he let go of the gate after being hit with the blunt instrument but told the CCRB that he let go of the gate after being pepper sprayed. According to § 87(2)(b) these uses of force resulted in him letting go of the gate being handcuffed.

PO McIntosh denied striking § 87(2)(b) with any blunt instruments. None of the remaining parties who recalled the apprehension of § 87(2)(b)—§ 87(2)(b) and Sgt. Brown—described seeing any officer hit § 87(2)(b) with a blunt instrument. However Sgt. Brown did recall § 87(2)(b) resisting arrest by holding onto a gate.

Photographs of § 87(2)(b)'s hands taken approximately four hours after the incident by IAB appear to show bruising on § 87(2)(b)'s right hand. Medical records note that § 87(2)(b)'s right hand was X-rayed due to a reported "right hand injury. No fractures or soft tissue damage was detected.

§ 87(2)(g)

It is undisputed that PO McIntosh pepper sprayed § 87(2)(b) after verbal instructions failed to overcome his resistance to arrest. Although McIntosh stated that no officers tried to physically restrain § 87(2)(b) prior to him pepper spraying § 87(2)(b) both § 87(2)(b) and Sgt. Brown stated that officers tried and failed to physically restrain § 87(2)(b) prior to PO McIntosh pepper spraying him. § 87(2)(g)

Officers are required to use only the minimum amount of force necessary overcome resistance to arrest. NYPD Patrol Guide Procedure 203-11 (encl. 0.0 – 0.1). Pepper spray may be used to overcome physical resistance to arrest in circumstances where the physical presence and verbal commands of the officer have not been or would not be effective. NYPD Patrol Guide Procedure 212-95 (encl. 0.3-0.6).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation C – Force: PO Derrick McIntosh used physical force against § 87(2)(b) on Halsey Street between Bedford Avenue and Nostrand Avenue in Brooklyn.**

§ 87(2)(b) alleged that PO McIntosh punched him in the face multiple times after he had already been handcuffed. § 87(2)(b) told Group 9 that PO McIntosh punched him in the face and right eye, told Group 54 that PO McIntosh punched him in the face, and told the CCRB that PO McIntosh then punched him in the right side of his chin three or four times.

PO McIntosh denied that he punched § 87(2)(b) in the face. None of the other officers at the location who recalled the incident—Sgt. Brown, PO Madhu, PO Mazhar, PO Mochrie, and PO Patterson—saw PO McIntosh punch § 87(2)(b) in the face.

§ 87(2)(b) denied that any officer punched § 87(2)(b) in the face. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Medical records note that § 87(2)(b) stated to EMS “my eye, the[y] hit me in it” and “I was pushed to the wall and hit my face.” However, the only injury to § 87(2)(b)’s right eye which is noted in any of the medical records is the laceration to his eyebrow which he alleged was caused by being hit against the walls of the 79<sup>th</sup> Precinct stationhouse. A CT scan and X-ray of § 87(2)(b)’s head and facial bones found no fractures or soft tissue injuries. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation D – Force: PO Shibu Madhu hit § 87(2)(b) against walls at the 79th Precinct stationhouse.**

**Allegation E – Force: PO Brian Mochrie hit § 87(2)(b) against walls at the 79th Precinct stationhouse.**

**Allegation F – Force: PO Tamiko Patterson hit § 87(2)(b) against walls at the 79th Precinct stationhouse.**

§ 87(2)(b) alleged that the officers who escorted him into the 79<sup>th</sup> Precinct stationhouse—determined by the investigation to have been PO Madhu, PO Mochrie, and PO Patterson—hit him against the stationhouse walls four times on the way to bringing him to the cell. In his statements to IAB Group 9 and the CCRB, § 87(2)(b) also alleged that officers hit him against the bench and wall of the holding cell two or three times, but he did not make this allegation in his statement to IAB Group 54. § 87(2)(b) did not know which officers participated in striking him against the walls.

§ 87(2)(b) stated that he incurred a laceration to his right eyebrow from the first strike against the stationhouse walls, which occurred immediately upon entering the stationhouse. § 87(2)(b)

§ 87(2)(b) alleged that a desk officer witnessed this first strike against the wall at the stationhouse entrance. § 87(2)(b) alleged that the blood from his laceration got on the walls of the stationhouse and holding cell, and that at least one officer at the front desk witnessed the strike which caused the laceration. § 87(2)(b) also stated that he suffered pain in his left shoulder as a result of the force used against him.

PO Madhu, PO Mochrie, and PO Patterson admitted that they escorted § 87(2)(b) into the stationhouse and holding cell, but denied that they struck him against any walls or hard surfaces in the stationhouse. PO Mazhar witnessed PO Madhu, PO Mochrie, and PO Patterson escorting § 87(2)(b) into the stationhouse and holding cell and stated that he did not witness them strike

§ 87(2)(b) against any walls or other hard surfaces. PO Mochrie and PO Patterson did observe a laceration to § 87(2)(b)'s head in the holding cell, but did not recall how he incurred it. PO Mochrie observed blood on the floor of the stationhouse in a place where § 87(2)(b) fell to the ground, and PO Patterson observed § 87(2)(b) smearing blood from the cut on his head on the holding cell wall. A command log entry prepared by desk officer Sgt. Monkowski documented that § 87(2)(b) had a cut and swelling on his head. However, neither Sgt. Monkowski, nor the telephone switchboard operator, PO Balestriere, nor the cell attendant, PO Williams, do not recall the incident.

Medical records, photographs of § 87(2)(b) taken by IAB on the date of the incident, and § 87(2)(b)'s arrest photo confirm that § 87(2)(b) incurred a laceration to his right eyebrow that was treated with stitches. Medical records note that § 87(2)(b) stated to EMS "my eye, the[y] hit me in it" and "I was pushed to the wall and hit my face." The chief medical complaint listed for § 87(2)(b) was head trauma and loss of consciousness. CT scans and X-rays of § 87(2)(b)'s abdomen, chest, spine, left shoulder, head and facial bones found no fractures or soft tissue injuries. Photographs of § 87(2)(b)'s abdomen and shoulder taken by his family and by the CCRB show no obvious indication of injury. Photographs taken by IAB found no blood on the walls of the holding cell where § 87(2)(b) was kept, but these photos were taken approximately four and half hours after the incident. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

PO Mochrie stated that § 87(2)(b) fell down when he lunged at § 87(2)(b) at the arrest location. § 87(2)(g) § 87(2)(b) and § 87(2)(b) both stated that § 87(2)(b) deliberately threw himself to the ground at the arrest location, but § 87(2)(b) stated that officers caught him, and no other statements support their claim. Moreover, no one interviewed observed any injuries on § 87(2)(b) until he was at the stationhouse. § 87(2)(g)

§ 87(2)(b) and § 87(2)(b) alleged that § 87(2)(b) banged his own head inside the police car. § 87(2)(g)

PO Patterson stated she intended for her criminal court complaint to state that § 87(2)(b) struck his own head against the inside of the car, but she admitted in her CCRB interview that she did not actually see him do so. No other officer observed § 87(2)(b) strike his own head.

§ 87(2)(g)

PO Mazhar, PO Madhu, PO Mochrie, and PO Patterson all stated that § 87(2)(b) and the officers escorting him into the stationhouse accidentally fell to the ground as a result of § 87(2)(b) resisting being moved. PO Mochrie also stated that he saw blood on the ground where

§ 87(2)(b) had fallen. However, none of the officers saw whether § 87(2)(b) hit his head on the ground when this occurred. Indeed, no officer saw or recalled seeing § 87(2)(b)'s head strike a hard surface at any other point during the incident. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Team: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature                      Print                      Date

Reviewer: \_\_\_\_\_  
Title/Signature                      Print                      Date

Reviewer: \_\_\_\_\_  
Title/Signature                      Print                      Date